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**WTO Adopts Report Upholding U.S. Position on  
Canadian Lumber Subsidies**

WASHINGTON - The World Trade Organization (WTO) today officially adopted findings from a recent panel report granting the United States victory on a key issue in the ongoing softwood lumber dispute between the United States and Canada. The report confirms that the Canadian provinces' sale of timber from public lands can constitute a subsidy under the WTO Subsidies Agreement.

The WTO panel also agreed with the United States that U.S. laws governing reviews of countervailing duty orders are fully consistent with the WTO Subsidies Agreement. However, the panel found against the United States on the U.S. methodology for calculating the amount of the subsidy. The United States is pursuing that issue in another WTO case.

"We're pleased that the WTO affirmed the longstanding U.S. position that Canada's timber sales from government land constitute a subsidy," said U.S. Trade Representative Robert B. Zoellick. "While we strongly believe that the WTO erred on the calculation methodology, we are vigorously defending that methodology in another WTO case. "

In response to the WTO findings, U.S. Commerce Secretary Don Evans said, "We are committed to defending our lumber industry from unfair trading practices and we strongly object to the panel's flawed ruling on the way we determined the amount of subsidies. We are confident that our calculations are consistent with WTO rules."

The WTO panel report is a victory for the United States on two fundamental issues:

- Canadian provinces' sale of timber from public lands can constitute a subsidy under the WTO Subsidies Agreement; and
- U.S. laws governing reviews of countervailing duty orders are fully consistent with the WTO Subsidies Agreement.

These findings will be key parts of U.S. arguments in a separate WTO proceeding dealing with Canadian lumber.

The U.S. trade action challenged by the Canadians in the WTO report adopted today involved the preliminary imposition of countervailing duties, a special duty that the WTO allows importing countries to impose to remedy the injury caused by imported goods that have been subsidized by foreign governments. The report relates only to preliminary countervailing duties, which have already been refunded to Canadian lumber producers because of a U.S. law unrelated to this WTO case. Those preliminary duties amounted to almost \$1 billion.

The WTO report does not affect the final countervailing duties that are currently in place, which are subject to a separate WTO proceeding. The United States will strongly argue in that proceeding that the incorrect findings in today's report should be disregarded.

The United States believes the WTO panel erred in rejecting the use of comparable U.S. prices as a benchmark for measuring whether government timber prices in Canada are below market value, and amount to a subsidy benefit. The United States concluded that there were no market determined prices in Canada because of the overwhelming dominance of government timber prices. The WTO panel concluded that investigating authorities may never, under any circumstances, use prices outside the country under investigation as a benchmark, even if that country has monopoly power and effectively controls all prices in its domestic market.

As the United States noted at the WTO today, the panel's rejection of U.S. price benchmarks means that whenever a government subsidizes its domestic industry so that it dominates the entire market, the complaining country cannot fully offset the subsidy.

The WTO report released today has no impact on any of the other cases. The United States will continue to vigorously defend its trade laws, including in challenges that Canada has raised in separate WTO and NAFTA cases related to other aspects of the U.S. softwood lumber determinations.

### **Background:**

The WTO panel report that was adopted today addresses only the August 9, 2001 U.S. preliminary countervailing duty determination. Canada requested WTO consultations regarding the preliminary countervailing duty determination on August 21, 2001. The WTO panel was established on December 5, 2001, and the final report was released to the public on September 27, 2002. In addition to this WTO proceeding, Canada has also contested the U.S. decision on final countervailing duties that was announced in May 2002. That proceeding is now underway.

The panel report is posted on the WTO website ([www.wto.org](http://www.wto.org)). The briefs that USTR submitted to the panel are available on the USTR website at [www.ustr.gov/enforcement/briefs](http://www.ustr.gov/enforcement/briefs).

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